

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

GLENN FORD
Petitioner

NO. 5:12-cv-00350

v.

JUDGE Elizabeth E. Foote

BURL CAIN, Warden,
Louisiana State Penitentiary,
Respondent

MAGISTRATE JUDGE Mark Hornsby

MOTION FOR STAY AND ABEYANCE

COMES NOW the Petitioner, GLENN FORD, and respectfully requests that this Court hold proceedings on his habeas petition in abeyance to enable him to return to state court to exhaust his claims. In support thereof, Petitioner states:

1. Mr. Ford is a Louisiana death-sentenced prisoner. On February 3, 2012, Mr. Ford filed his petition for habeas corpus under 28 U.S.C. § 2254 (Doc. 1).
2. Respondent recently disclosed that an individual named Jake Robinson confessed to an informant for the Caddo Parish Sheriff's Office that he—not Mr. Ford—shot and killed Isadore Rozeman.
3. Mr. Ford requests that this Court hold the proceedings in abeyance so that he can litigate his newly discovered evidence of actual innocence before the state courts.
4. The United States Supreme Court has set out a three-part test for evaluating a motion for stay and abeyance, stating that “it would likely be an abuse of discretion” for a federal

court to deny such a motion “if the petitioner had good cause for his failure to exhaust, his unexhausted claims are potentially meritorious, and there is no indication that the petitioner engaged in intentionally dilatory litigation tactics.” *Rhines v. Weber*, 544 U.S. 269, 278 (2005).

5. In this case, all of the Supreme Court’s conditions are met. First, Mr. Ford’s has good cause for his failure to exhaust, as his unexhausted claim of actual innocence is based on evidence that was not known to him, through no fault of his own, during his initial state court proceedings.
6. Second, Mr. Ford’s claim is potentially meritorious. Jake Robinson’s confession confirms what Mr. Ford told law enforcement in 1983—that he was not involved in Mr. Rozeman’s murder, and that he only fenced stolen property. At trial, the State failed to disclose evidence that further supports both Robinson’s confession and Mr. Ford’s statements; the suppressed evidence indicates that Jake Robinson and his brother were responsible for the murder of Mr. Rozeman and that afterwards the brothers were in possession of the murder weapon. (Doc. 1, pp. 87-108). Finally, Mr. Robinson’s confession must be considered alongside the insubstantial nature of the prosecution’s case. On direct appeal, the Louisiana Supreme Court found “serious questions” about the evidence; one judge dissented from the majority’s decision to uphold the conviction, stating the evidence was not sufficient to convict. *State v. Ford*, 489 So.2d 1250, 1254, 1257, 1268 (La. 1986).
7. Third, Mr. Ford did not engage in any intentionally dilatory tactics. Moreover, the attached proposed order mandates that Mr. Ford file a petition for post-conviction relief

in state court within 120 days, and notify this Court within 30 days of final disposition of his claims in the state courts.

WHEREFORE, Mr. Ford respectfully requests that this Court grant him the following relief:

- (A) That the instant habeas corpus petition be stayed;
- (B) That Mr. Ford be allotted 120 days in which to file a petition for post-conviction relief pursuant to La.C.Cr.P. art. 926;
- (C) That Mr. Ford notify this Court within 30 days of final disposition of his claims in the Louisiana state courts.

Respectfully submitted,

/s/ Gary P. Clements
Gary P. Clements (La. Bar No. 21978)
D. Aaron Novod (La. Bar No. 31275)
Capital Post-Conviction Project of Louisiana
1340 Poydras Street, Suite 1700
New Orleans, LA 70112
Tel. (504) 212-2110
Fax (504) 212-2130

CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion for Stay and Abeyance* has been served via electronic notification and certified mail upon Respondent through Assistant District Attorney Catherine Estopinal, Caddo Parish District Attorney's Office, 501 Texas Street, 5th Floor, Shreveport, LA 71101 on this 19th day of November, 2013.

/s/ Gary P. Clements